



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED

APR 14 2006

OFFICE OF PETITIONS

In re Patent No. 6,963,350 :
Perani et al. : DECISION ON REQUEST
Issue Date: November 8, 2005 : FOR RECONSIDERATION OF
Application No. 09/898,653 : PATENT TERM ADJUSTMENT
Filed: July 3, 2001 : and
Atty Docket No.07844-507001/ : NOTICE OF INTENT TO ISSUE
P470 : CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed Monday, January 9, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 381 days.

The request for reconsideration of the patent term adjustment indicated in the patent is GRANTED.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred eighty-one (381) days.

On November 8, 2005, the above-identified application matured into U.S. Patent No. 6,963,350. The instant request for reconsideration filed, Monday, January 9, 2006, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 309 days. Patentees contend that there were no circumstances within this case history that constitute a failure by the Patentees to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in

37 CFR § 1.704. Patentees dispute the reduction of 72 days associated with the filing of a "miscellaneous incoming letter" received in the Office on August 29, 2005. Patentees state that the paper filed was a "Response to Notice of Allowance," which included the issue fee payment and the Issue Fee Transmittal, and thus, no reduction is warranted.

Patentees' contention is well taken. The OG Notice states that:

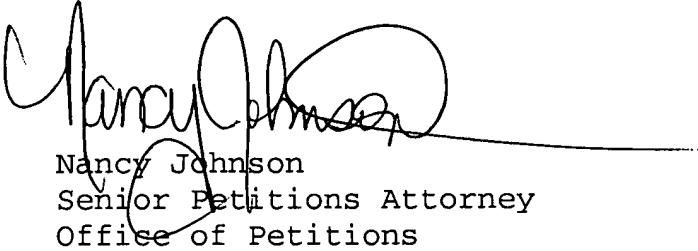
... the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

In view thereof, the patent term adjustment indicated on the patent should be three hundred eight-one (381) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED EIGHTY-ONE (381) days.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,963,350 B1
DATED : November 8, 2005
INVENTOR(S) : Perani et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (309) days

Delete the phrase "by 309" and insert - by 381 days--